

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WILLIAM HENDREN,

Plaintiff,

v.

CV 09-1078 JB/WPL

BERNALILLO COUNTY METROPOLITAN
DETENTION CENTER, ET AL.,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER comes before me on the Defendants' motion to dismiss based on Plaintiff William Hendren's failure to comply with a discovery obligation or, in the alternative, to provide an extension for the submission of their *Martinez* report, filed January 18, 2011. (Doc. 37.) The Defendants filed a similar motion in December, (Doc. 34), and I granted an extension of the *Martinez* report deadlines, (Doc. 35). The Defendants assert that Hendren continues to ignore his obligation to provide a medical release for the University of New Mexico Hospital ("UNMH"). (Doc. 34 at 3.) They claim that this failure prevents them from moving forward with the case. (*Id.* at 4.) For the reasons discussed below, I am issuing this Order to Show Cause and setting a show cause hearing.

This case began over a year ago. Hendren's claims against the Defendants include that he did not receive proper medical care and medication while in their custody and that he was hospitalized as a result. (Doc. 1 at 4-5.) Hendren was represented by counsel at the outset, and, in his Rule 26 Initial Disclosures, his counsel assured the Defendants that he would provide a medical

release. (Doc. 34 Ex. 1 at 4.) Hendren's counsel was permitted to withdraw on October 29, 2010, (Doc. 26), but the Defendants never received the release, (Doc. 37 at 2). The Defendants have sent Hendren two letters with a UNMH release form enclosed requesting that he execute the release, one on December 1, 2010 and one on January 6, 2011. (*Id.* at 3.) They have received no response. (*Id.*)

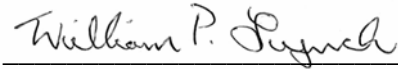
Pursuant to this District's local rules, a party is required to produce an authorization to release medical records form with the party's initial disclosures where his medical condition is at issue. D.N.M.LR-Civ. 26.3(d)(3). I reminded Hendren of this obligation in my Order on the Defendants' first motion to dismiss for failure to comply with discovery obligations. (Doc. 35 at 2.) The failure to comply with this District's Local Rules, discovery obligations, and specific orders of the Court can result in the imposition of Rule 16 and Rule 37 sanctions. *See* FED. R. CIV. P. 16(f) & 37(b)(2). One possible sanction is the dismissal of a party's claims with prejudice. *Ehrenhaus v. Reynolds*, 965 F.2d 916, 920 (10th Cir. 1992).

Accordingly, Hendren is hereby ordered to show cause why he has not provided a UNMH medical release to the Defendants as required by D.N.M.LR-Civ. 26.3(d)(3). **If Hendren fails to provide a release, to respond to this Order, and/or to appear at the hearing, this case may be dismissed with prejudice.**

IT IS THEREFORE ORDERED that Plaintiff William Hendren shall appear **in person** on **February 3, 2011 at 1:30 p.m.** in the **Organ Courtroom (4th Floor, South Tower)** of the United States Courthouse and Federal Building, **100 North Church Street, Las Cruces, N.M.**, to show cause as described above. The Defendants may appear in person or telephonically. Should they wish to appear telephonically, they must contact my chambers at **(575) 528-1660** by **January 31, 2011** to discuss coordinating the call.

IT IS FURTHER ORDERED that the deadlines for the submission of the Defendants'

Martinez report are suspended. Because Hendren's hospital records may be relevant in preparing the report, I will, if necessary, issue new deadlines for the submission of the *Martinez* report following the show cause hearing.

A handwritten signature in dark ink, reading "William P. Lynch". The signature is written in a cursive style with a horizontal line underneath it.

WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE

A true copy of this order was served
on the date of entry--via mail or electronic
means--to counsel of record and any *pro se*
party as they are shown on the Court's docket.